

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-1474V

Filed: April 18, 2017

(Not to be Published)

JANET CAKIR, as parent and
guardian of C.A.C., a minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES

Respondent.

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Decision on Interim Attorneys'
Fees and Costs

DECISION AWARDING INTERIM ATTORNEYS' FEES AND COSTS

HASTINGS, *Special Master.*

On December 7, 2015, Petitioner filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program ("the Program"),¹ alleging that C.A.C. was injured by a vaccine or vaccines listed on the Vaccine Injury Table. See § 14. On March 23, 2017, Petitioner filed an application for interim attorneys' fees and costs in this matter. Petitioner requests a total award of \$28,794.66, representing \$20,229.50 for attorneys' fees, and \$8,565.16 for attorneys' costs.

On April 5, 2017, Respondent filed a Response to Petitioner's application for Attorneys' Fees and Costs. (ECF No. 30.) However, Respondent provided no specific comments concerning the amounts requested, and simply "recommends that the special master exercise his discretion [to] determine a reasonable award." (*Id.*, p. 3.)

¹ The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter "Vaccine Act" or "the Act"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

I find that an award of interim attorneys' fees and costs is appropriate in this case. Interim attorneys' fees and costs are explicitly authorized by the binding precedent of the United States Court of Appeals for the Federal Circuit. *Avera v. HHS*, 515 F.3d 1343; *Shaw v. HHS*, 609 F.3d 1372, 1374 (Fed. Cir. 2010) ("the Vaccine Act permits [an] award of interim fees and costs"); *Cloer v. HHS*, 675 F.3d 1358, 1361-62 (Fed. Cir. 2012) ("Congress made clear that denying interim attorneys' fees under the Vaccine Act is contrary to an underlying purpose of the Vaccine Act."). *See also* Vaccine Rule 13(b).

The request for interim attorneys' fees and costs is hereby granted. I find that the petition was brought in good faith and upon a reasonable basis, and the amounts requested are reasonable and appropriate. Accordingly, I hereby award the following attorneys' fees and costs pursuant to 42 U.S.C. § 300aa-15(b) and (e)(1):

- a lump sum of \$28,794.66, in the form of a check payable jointly to Petitioner and Petitioner's counsel, Andrew D. Downing, on account of services performed by counsel's law firm.

In the absence of a timely-filed motion for review filed pursuant to Appendix B of the Rules of the U.S. Court of Federal Claims, the clerk of the court shall enter judgment in accordance herewith.²

IT IS SO ORDERED.

/s/ George L. Hastings, Jr.
George L. Hastings, Jr.
Special Master

² Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. *See* Vaccine Rule 11(a).